ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Nakano | Analyst: Marion Mann DeJong | Bill Number: AB 2065

Related Bills: | Telephone: 845-6979 | Amended Date: 03/27/2000

Attorney: Patrick Kusiak | Sponsor:

SUBJECT: Persons Who Own and Occupy Residence Near Airports with Decibel Level of 65 or Greater Credit

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL), this bill would provide a $500 tax credit for taxpayers who own and occupy a residence that is subjected to a specified level of noise from an airport.

SUMMARY OF AMENDMENT

The March 27, 2000, amendments deleted the provision declaring legislative intent to enact a deduction for expenses paid by persons living near specified airports and replaced it with the credit discussed in this analysis.

EFFECTIVE DATE

As a tax levy, this bill would become effective immediately upon enactment and would be operative for taxable years beginning on or after January 1, 2001, and before January 1, 2006.

PROGRAM HISTORY/BACKGROUND

Under current law and regulations, the California Department of Transportation (Caltrans) establishes noise standards for airports. Variances from the established noise standards may be granted after a public hearing. Noise standards are based upon the level of noise acceptable to a reasonable person residing in the vicinity of the airport. The current acceptable level of aircraft noise for persons living in the vicinity of airports is a Community Noise Equivalent Level of 65 decibels. An airport operator must apply for and receive a variance to operate at a level in excess of 65 decibels.

Enforcement of the noise standard and variances is the responsibility of the county in which the airport is located. The airport operator reimburses the county's enforcement costs.

SPECIFIC FINDINGS

Current federal and state tax laws provide various tax credits designed to provide tax relief for taxpayers that incur certain expenses (e.g., child and dependent care credits) or to influence business practices and decisions or achieve social goals. Credits generally are based on a percentage of expenditures by the taxpayer.

Board Position:			Department Director	Date
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Under the PITL this bill would provide a $500 tax credit to a "qualified taxpayer." A "qualified taxpayer" would mean a person who owns and occupies a residence that is subjected to an annual Community Noise Equivalent Level (CNEL) of 65 decibels or greater. The annual CNEL, in decibels, is the average (on an energy basis) of the daily Community Noise Equivalent Level over a 12-month period, calculated in accordance with the California Code of Regulations (Section 5001 (d) of Title 21) for airport noise.

Only persons who own and occupy a residence for more than 50% of the taxable years would be entitled to this credit. Only one qualified taxpayer per residence would be allowed this credit.

Any credit in excess of net tax could be carried forward indefinitely.

Policy Considerations

This bill provides for an unlimited credit carryover that would require the department to retain the carryover on the tax forms indefinitely. Recent credits have been enacted with a carryover limit since experience shows credits are typically used within eight years of being earned.

Although the bill requires the taxpayer to own a residence for six months, it does not require the residence actually impacted by airport noise to be owned for six months.

Implementation Considerations

This bill would raise the following implementation considerations. Department staff is working with the author to resolve these concerns.

The bill does not specifically limit the credit to residences impacted by airport noise. However, the bill would provide a credit for residences subjected to an annual CNEL of 65 decibels calculated in accordance with airport noise methods. According to the author, the intent is to provide the credit only to taxpayers who own residences impacted by airport noise.

It may be difficult for taxpayers and department staff to determine if the taxpayer lives within an impacted area around an airport. Caltrans currently develops contour maps of noise impact areas around "noise problem airports." A noise problem airport is an airport declared to have a noise problem by the county in which it is located. According to Caltrans staff, residences around airports for which there is no noise impact map may be impacted by noise in excess of 65 decibels. If residences around such airports would qualify for the credit, it is unclear how the credit qualification could be verified.

The department would work with Caltrans to establish procedures to share information that would assist the department with verifying that a taxpayer owns a residence within an impacted area and thus qualifies for the credit.

The bill specifically provides that only one taxpayer per residence may claim this credit, but does not provide rules for determining, in the case of multiple (particularly unrelated) owners, which taxpayer would be entitled to claim this credit.

The bill defines a qualified taxpayer as a "person," which term is defined under Section 17007 to include "individuals, fiduciaries, partnerships, limited liability companies, and corporations." However, the bill's provisions appear to be intended to apply only to individuals who own and occupy a residence.

FISCAL IMPACT

Departmental Costs

If the implementation considerations discussed in this analysis were resolved, this bill would not significantly impact the department's costs.

Tax Revenue Estimate

Based on the data and assumptions below, revenue losses are estimated as follows:

Estimated Revenue Impact		
Taxable Years Beginning After January 1, 2001		
Enactment Assumed After June 30, 2000		
Fiscal Years		
(In Millions)		
2001-02	2002-03	2003-04
$ -9	**$ -9**	**$ -9**

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

Information used in this analysis was obtained from various sources including Caltrans and the State Census Data Center.

The revenue impact was determined in the following manner. First, the total number of 50,000 residences in the designated airport noise level areas was obtained from Caltrans. Next, a vacancy rate for residences of 7% and an owner-occupied rate of 70% were both applied to the 50,000 residences to arrive at the total of 32,550 qualified residences. It was projected that 75% of the taxpayers who own and reside in the qualified residences would have tax liabilities and be able to apply an average 67% of the credit in the year generated and apply the remaining 23% carryover in the next taxable year.

The projected taxable year 2001 revenue loss is more than $10 million. The first fiscal year impact primarily represents all of the 2001 impact plus an allowance for reductions in some estimated tax payments.

BOARD POSITION

Pending.